

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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KEITH TERRELL BUTLER,

Plaintiff,

vs

9:08-CV-533

L. TUPER, III, Corrections Officer, Upstate  
Correctional Facility; and THE STATE OF  
NEW YORK,

Defendants.  
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APPEARANCES:

OF COUNSEL:

KEITH TERRELL BUTLER  
05-a-1392  
Plaintiff, Pro Se  
Attica Correctional Facility  
Box 149  
Attica, NY 14011

DAVID N. HURD  
United States District Judge

**ORDER**

Plaintiff, Keith Terrell Butler, brought this civil rights action pursuant to 42 U.S.C. § 1983. In a Report Recommendation dated June 12, 2008, the Honorable George H. Lowe, United States Magistrate Judge, recommended that the court issue an order sua sponte dismissing plaintiff's complaint, if within thirty days of the date of the final order the plaintiff did not either pay the filing fee of \$350.00 or file a completed motion for leave to proceed in forma pauperis accompanied by a completed inmate authorization form agreeing to pay the filing fee over time, and file an amended complaint that complies with Fed. R. Civ. P. 8(a)(2), 10(b), and 12(b)(6). Thereafter, plaintiff filed an amended complaint, a motion for leave to proceed in forma pauperis, and an inmate

authorization form. Magistrate Judge George H. Lowe issued a Supplemental Report-Recommendation dated August 5, 2008 wherein he granted plaintiff's second motion to proceed in forma pauperis, and recommended that the court sua sponte dismiss plaintiff's amended complaint pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(ii), 1915A and Fed. R. Civ. P. 12(h)(3). The plaintiff submitted no objections to the original Report-recommendation, and has not submitted objections to the Supplemental Report-Recommendation.

Based upon a careful review of the entire file, it appears that the plaintiff basically complied with the recommendations in the original report-recommendation. Upon review of the Amended Complaint and the recommendations of Magistrate Judge Lowe contained in the Supplemental Report-Recommendation, said Supplemental Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. 636(b)(1).

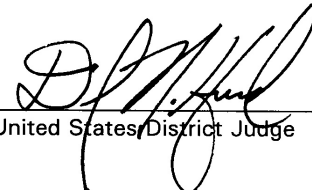
Accordingly, it is

ORDERED that

1. Plaintiff's Amended Complaint is DISMISSED;
2. The Clerk is directed to enter judgment accordingly and close the file.

IT IS SO ORDERED.

Dated: September 15, 2008  
Utica, New York.



United States District Judge